

IN THE SENATE

SENATE BILL NO. 1376, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC OFFICIALS; AMENDING SECTION 74-604, IDAHO CODE, TO PRO-  
2 VIDE AN EXCEPTION FOR CERTAIN PUBLIC OFFICIALS FOR THE USE OF PUBLIC  
3 PROPERTY OR RESOURCES WHILE ADVOCATING FOR OR AGAINST AN INITIATIVE OR  
4 REFERENDUM AND TO PROVIDE CONDITIONS; AMENDING SECTION 74-605, IDAHO  
5 CODE, TO REVISE A PROVISION REGARDING CAMPAIGNING OR ADVOCACY FOR OR  
6 AGAINST AN INITIATIVE OR REFERENDUM, TO PROVIDE THAT USE OF PUBLIC  
7 PROPERTY AND RESOURCES BY CERTAIN PUBLIC OFFICIALS ADVOCATING FOR OR  
8 AGAINST AN INITIATIVE OR REFERENDUM SHALL NOT BE PROHIBITED, AND TO PRO-  
9 VIDE CONDITIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
10 DATE.  
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 74-604, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 74-604. PUBLIC FUNDS PROHIBITED. Unless specifically required by  
16 law, and except as provided in this chapter:

17 (1) Neither a public entity nor its employees shall make, nor shall a  
18 public official make or authorize, an expenditure from public funds to advo-  
19 cate for or against a candidate or a ballot measure.

20 (2) Neither a public entity nor any of its employees shall use, nor  
21 shall a public official authorize or use, public property or resources to  
22 advocate for or against a candidate or a ballot measure. There shall be an  
23 exception to the provisions of this subsection for any elected and currently  
24 servicing Idaho legislator personally making use of public property or re-  
25 sources for the sole purpose of advocating for or against an initiative or  
26 referendum. This exemption shall apply only to the legislator's use of pub-  
27 lic property or resources for communication with the public using electronic  
28 or traditional physical correspondence or the use of any portion of any media  
29 initially produced using public property or resources from recordings of the  
30 legislature or any legislative committees. This exception shall not apply  
31 to any travel-related expenses or any advocacy for or against a candidate.

32 (3) Neither a public entity nor any of its employees shall provide or  
33 offer to provide, nor shall a public official provide or offer to provide,  
34 college extra credit to a student of a state institution of higher learning  
35 either:

36 (a) To encourage a student to vote or not vote; or

37 (b) To influence a student's vote for or against a candidate or ballot  
38 measure.

39 SECTION 2. That Section 74-605, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

1 74-605. EXCLUSIONS. Nothing in this chapter shall prohibit:

2 (1) A public official or employee from speaking, campaigning, con-  
3 tributing personal money or otherwise exercising the public official's  
4 or employee's individual first amendment rights for political purposes,  
5 provided no public funds are used for expenditures supporting the public  
6 official or employee in such activity;

7 (2) A public entity, public official or employee from the neutral en-  
8 couragement of voters to vote;

9 (3) An elected official or employee from personally campaigning or ad-  
10 vocating for or against a ballot measure, provided no public funds, property  
11 or resources are used for supporting the elected official or employee in such  
12 activity except as provided in subsection (4) of this section;

13 (4) An elected and currently serving Idaho legislator personally mak-  
14 ing use of public property or resources for the sole purpose of advocating  
15 for or against an initiative or referendum, provided the use shall only apply  
16 to the legislator's use of public property or resources for communication  
17 with the public using electronic or traditional physical correspondence or  
18 the use of any portion of any media initially produced using public property  
19 or resources from recordings of the legislature or any legislative commit-  
20 tees, and provided the use does not apply to any travel-related expenses or  
21 any advocacy for or against a candidate;

22 ~~(4)~~ (5) A public entity from preparing and distributing to electors an  
23 objective statement explaining the purpose and effect of the ballot measure,  
24 including in the case of bond or levy elections the cost per taxpayer or tax-  
25 able value, or similar information based on reasonable estimates prepared in  
26 good faith;

27 ~~(5)~~ (6) The formulation and publication of statements regarding pro-  
28 posed amendments to the state constitution, as authorized by section 67-453,  
29 Idaho Code;

30 ~~(6)~~ (7) The publication of information described in sections 34-913,  
31 34-914, and 34-1406, Idaho Code, as applicable, or other provisions of law  
32 requiring notices and disclosures in connection with elections and ballot  
33 measures; or

34 ~~(7)~~ (8) A balanced student classroom (8) discussion or debate of current or  
35 pending election issues.

36 SECTION 3. An emergency existing therefor, which emergency is hereby  
37 declared to exist, this act shall be in full force and effect on and after  
38 July 1, 2024.